

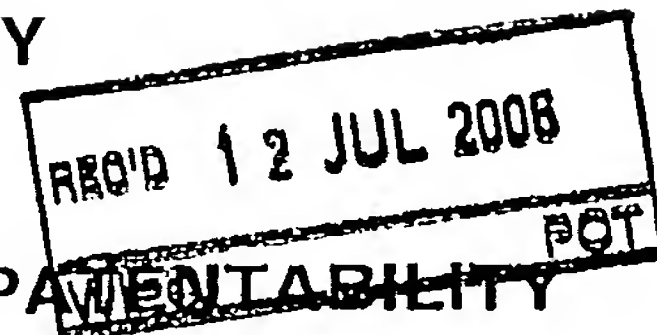
PATENT COOPERATION TREATY


PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)



Applicant's or agent's file reference PWO051456	FOR FURTHER ACTION		See Form PCT/PEA/416
International application No. PCT/US2005/012181	International filing date (day/month/year) 11.04.2005	Priority date (day/month/year) 08.04.2004	
International Patent Classification (IPC) or national classification and IPC INV. B65D71/00			
Applicant MEADWESTVACO PACKAGING SYSTEMS LLC et al.			
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 6 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input checked="" type="checkbox"/> sent to the applicant and to the International Bureau) a total of 6 sheets, as follows:</p> <p style="margin-left: 40px;"><input checked="" type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p style="margin-left: 40px;"><input checked="" type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in electronic form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>			
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the report</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input checked="" type="checkbox"/> Box No. VIII Certain observations on the international application</p>			
Date of submission of the demand 08.02.2006		Date of completion of this report 11.07.2006	
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465		Authorized officer Fitterer, J Telephone No. +49 89 2399-7916	



**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/US2005/012181

Box No. I Basis of the report

1. With regard to the **language**, this report is based on
 - ☒ the international application in the language in which it was filed
 - ☐ a translation of the international application into , which is the language of a translation furnished for the purposes of:
 - ☐ international search (under Rules 12.3(a) and 23.1(b))
 - ☐ publication of the international application (under Rule 12.4(a))
 - ☐ international preliminary examination (under Rules 55.2(a) and/or 55.3(a))
2. With regard to the **elements*** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report):*

Description, Pages

1, 3-8	as originally filed
1a, 2, 2a	filed with telefax on 22.03.2006

Claims, Numbers

1-14	filed with telefax on 22.03.2006
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Drawings, Sheets

1/3-3/3	as originally filed
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- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing
3. ☐ The amendments have resulted in the cancellation of:
 - ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing *(specify):*
 - ☐ any table(s) related to sequence listing *(specify):*
 4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
 - ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing *(specify):*
 - ☐ any table(s) related to sequence listing *(specify):*

* If item 4 applies, some or all of these sheets may be marked "superseded."

**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/US2005/012181

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-14
	No: Claims	
Inventive step (IS)	Yes: Claims	1-14
	No: Claims	
Industrial applicability (IA)	Yes: Claims	1-14
	No: Claims	

2. Citations and explanations (Rule 70.7):

see separate sheet

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

see separate sheet

Re Item I

Basis of the report

The amendments filed with telefax on 22.03.06 introduce subject-matter which extends beyond the content of the application as filed, contrary to Article 34(2)(b) PCT. The amendments concerned are the following:

- Claims 1-6, 8-11, 14: The terminology "slits" or "cuts" has been replaced by "score lines".
- Claims 1, 10: The terminology "radial score lines" has been introduced.
- Claim 7: "wherein the retaining means (76) is so adapted as to engage complementary retaining means within the open top container" has been introduced.
- Claim 14: "towards the centre of the score line closest to the aperture" has been introduced.

Subject-matter which extends beyond the content of the application as filed, is not taken into account in the reasoned statement with regard to novelty, inventive step or industrial applicability (see below).

Re Item V

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1 Reference is made to the following documents:

D1: FR-A-2 752 559 (SMURFIT SOCAR) 27 February 1998 (1998-02-27)

D2: US-A-5 022 525 (SCHUSTER ET AL) 11 June 1991 (1991-06-11)

D3: US-A-4 646 917 (SCHUSTER ET AL) 3 March 1987 (1987-03-03)

2 With reference to the clarity objection raised under **Item VIII**, the independent claims are interpreted in the light of the description and the figures of the application as follows:

2.1 Terminology: The slits or cuts (37) (cf. figures 2, 3; pages 6-7) are concentrically arranged. The initiating cuts (cf. figures 2, 3; page 7, lines 1-3) which extend from the edge of the aperture (56) towards each group of slits or cuts (37) are radially

arranged.

- 2.2 Clarification of the independent claims according to page 6, lines 21, 22, 32, and page 7, lines 10-12: "the tear feature comprising at least one discrete group of short slits (37), said at least one discrete group of short slits comprising a series of partial concentric short slits arranged around the aperture (56) in different concentric rows, wherein removal of an article through the aperture causes a tear to be guided from an initiating cut of the aperture to a short slit closest to the aperture (56) and propagate to at least one adjacent outer short slit thereby causing the size of the aperture to be progressively increased".
- 3 Document D1 discloses (cf. figures 1-7) a top closure panel (3) for closing the top of an open-topped container (1), the panel (3) having a plurality of apertures (5), each to receive a portion of an article (2) held within the container (1).

From this, the subject-matter of independent claim 1 (clarified according to paragraph 2, see above) differs in that a tear feature comprises at least one discrete group of short slits, said at least one discrete group of short slits comprising a series of partial concentric short slits arranged around the aperture in different concentric rows, wherein removal of an article through the aperture causes a tear to be guided from an initiating cut of the aperture to a short slit closest to the aperture and propagate to at least one adjacent outer short slit thereby causing the size of the aperture to be progressively increased.

The subject-matter of claim 1 is therefore novel (Article 33(2) PCT).

The problem to be solved by the present invention may be regarded as providing a means for displaying and supporting the articles in combination with an access means for removal of the articles where the access means leaves the carton with sufficient integrity for replacement of articles for the purpose of returning to a recycling point.

The solution to this problem proposed in claim 1 of the present application is considered as involving an inventive step (Article 33(3) PCT) because none of the available prior art documents discloses a series of partial concentric short slits arranged around the aperture in different concentric rows. The cuts provided in the panels of the prior art documents D1, D2, D3 do not comprise a tear feature

such that removal of an article through the aperture causes a tear to be guided from an initiating cut of the aperture to a short slit closest to the aperture and propagate to at least one adjacent outer short slit. In fact the cited prior art documents disclose neck retainers which solve a different problem. Removal of an article through the aperture is not foreseen.

- 4 Claims 10, 13 are related to a blank for forming a top closure panel according to claim 1. Reference is made to the reasoning concerning claim 1 (see above, paragraph 3, including the clarification according to paragraph 2), thus clarified claims 10, 13 also meet the requirements of the PCT with respect to novelty and inventive step.
- 5 Claims 2-9, 14 are dependent on claim 1 and as such also meet the requirements of the PCT with respect to novelty and inventive step.
- 6 Claims 11-12 are dependent on claim 10 and as such also meet the requirements of the PCT with respect to novelty and inventive step.

Re Item VIII

Certain observations on the international application

Independent claims: The arrangement of the at least one discrete group of slits is not clear (Article 6 PCT). In particular, the terminologies "radiating", "disposed transversely of a notional radial line", "divergently from the notional radial line" do not clearly describe this arrangement. With regard to the terminology according to the amended set of claims this lack of clarity becomes even more evident in that the concentrically arranged score lines (37) are termed "radial score lines".